

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

BACKWARD CLASSES WELFARE DEPARTMENT – Appeal Petition filed by Sri Md. Murtuja Ali Ahmed S/o. Jameel Ahmed R/o. Kothapalli (v) of Jammikunta (M), Karimnagar District against the Proceedings of Collector & District Magistrate, Karimnagar on cancellation of Caste Certificate – Appeal allowed – Orders – Issued.

BACKWARD CLASSES WELFARE (C) DEPARTMENT

G.O.Ms.No. 18

**Dated: 04.09.2013.
Read the following:**

1. Proceedings R.Dis.No. C4/1222/2012 dated 15.09.2012 of Collector & District Magistrate, Karimnagar.
2. From Sri Md. Murtuja Ali Ahmed S/o Sri Jameel Ahmed, R/o Kothapalli (V) of Jammikunta(M), Appeal Petition, dated 9.10.2012.
3. Memo. No. 4633/C/2012-1, B.C. Welfare (C) Dept., dt: 11.10.2012.
4. From the Dist. Collector & Magistrate, Karimnagar, Lr.No.C4/1222/2012, dt: 15.12.2012.

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ORDER

In the reference 1st read above, the Collector & District Magistrate, Karimnagar District has issued orders cancelling the 'Dudekula' Backward Class Caste Certificate of Sri Md. Murtuja Ali Ahmed, S/o Jameel Ahmed, R/o Kothapalli (V) of Jammikunta (M), Karimnagar District, issued by the Tahsildar, Jammikunta, Karimnagar District.

2. In the reference 2nd read above, Sri Md. Murtuja Ali Ahmed has submitted an appeal petition to Government on the orders passed by the District Collector, Karimnagar District. The appellant in his Appeal Petition has submitted the following grounds in support of his caste claim:

- i) The Collector, Karimnagar District has not followed the mandatory procedure laid down in the A.P. (S.C, S.T. & B.Cs) Regulation of Issue of Community Certificates Act, 1993 and the Rules framed there under.
- ii) Though it is mandatory under Sec. 5 of the Act to hold an enquiry, the competent authority has not held any enquiry before passing the impugned order and issuing the notification.
- iii) The District Collector & Magistrate, Karimnagar District herein has failed to consider the fact that the mother of the appellant hails from a different caste i.e, Fakir Muslim and father of the appellant herein hails from a different community i.e., Dudekula and, as such, it is, but natural that the maternal uncle's caste is different from that of the case of father of the appellant. For the purpose of determining the social status of a person, it is the caste of the father only which has to be taken into consideration but not the caste of the family members of the mother, more particularly when the marriage between father and mother of the appellant is an inter-caste/community marriage.
- iv) The District Collector & Magistrate, Karimnagar District had failed to see that the Dudekula community is recognized as Muslim Community in the villages and that the people hailing from Dudekula community practices Muslim religion only. Even in the Muslim religion, Dudekula

community is treated to be Backward Class community and as such it cannot be said that the appellant herein has obtained false community certificates.

3. In the reference 3rd read above, Government have granted stay orders on the Procs.R.Dis.No.C4/1222/2012, dated 15.09.2012 of the District Collector, Karimnagar District and requested the Collector & District Magistrate, Karimnagar District to furnish a detailed report along with connected records to Government.

4. In the reference 5th read above, the Collector & District Magistrate, Karimnagar has furnished detailed report along with connected records.

5. The Appeal petitioner Sri Md.Murtuja Ali Ahmed was requested to attend the hearing on 27.08.2013 at 03.00 P.M before the Government in person or through Counsel.

6. Government have examined the appeal petition of Sri Md.Murtuja Ali Ahmed, S/o. Jameel Ahmed R/o. Kothapalli (v) of Jammikunta (M), Karimnagar District, have decided to allow the appeal petition on the following grounds:

7. The petitioner Sri Murtuza Ali, a local candidate of Zone V was selected by APPSC as MVI and appointed by appointment order dated: 09.02.2012 against the roaster point BC (B) while the complainant Sri P. Venkat Kumar, resident of Warasiguda, Secunderabad who also happens to be an Advocate and also happened to be competitor for the post appeared for the APPSC and filed complaint that, the BC (B) Certificate obtained by Sri Md.Murtuza Ali Ahmed is fake one and requested to verify the caste and take necessary action.

8. The District Collector, Karimnagar invoking the provisions of AP (SC/ST & BC) Regulations of issue of Community Certificate Act 1993 and Rules 1997 there-under based on the report of the Tahsildar and RDO concerned has cancelled the BC (B) Caste Certificate issued to the Appellant vide Proceeding No. R.Dis.Pro.C4/1222/2012, dated: 15.09.2012.

9. The appeal came up for hearing finally on 27.08.2013. Upon pursuing the records in detail, it is found that, the said Proceedings of the District Collector, Karimnagar suffer from deficiencies as much has been relied upon, the data collected by the Tahsildar/RDO who mostly depended upon obtaining information on correspondence from Head Master, Executive Engineer etc., without having perused the original entries in the original records of the schools and Departments.

10. The appellant claiming to be hailing from Dudekula Community, BC (B), has obtained Caste Certificates firstly on 28.05.1993 in R.DisNo.C/4643/1993, wherein the M.R.O. Jammikunta after causing due enquiry by basic Revenue Authorities has issued Caste Certificate to the Appellant that Appellant belong to the Dudekula Caste. Secondly, the appellant obtained Caste certificate on 02.10.2010 in F/7461/2002 wherein M.R.O. Jammikunta after due enquiry has issued the Certificate of Dudekula Caste, thirdly once again the caste certificate was obtained by the appellant from the Tahsildar, Jammikunta in Certificate No. 4900/2010, dated: 02.03.2010 where, the Tahsildar after stipulated enquiry issued this Certificate as Dudekula Community BC (B) Group.

11. From the perusal of the records, it is observed that, during the course of enquiry, authorities have merely relied upon the copies of the school records of the appellant wherein, the appellant was shown as that of Muslim. It is relevant to mentioned that, Dudekula Community Caste people are treated as Muslim in the Region/State though they practice Dudekula and most of them are by religion, practice Islam Religion. The

authorities have taken entry as "Indian Muslim" as forward caste in the enquiry. Though, the candidate studied in Telugu Medium in a rural village as evident from the records, because of the reason persons hailing from Dudekula Community interpreted as Muslim Forward Class.

12. Moreover, none of the authorities have examined in detail the village in native place as required by Sec. 14 of the Rules. The M.R.Os letter speak that, the family tree was taken as father's father and ended there whereas, the family tree pedigree has a broad meaning. This is much beyond the grand paternal father relations to arrive at the entire gamut of social, profession, hereditary, ancestors background. This has not been done which is very crucial to this issue.

13. Yet, one more interesting aspects of the case of the appellant which lost the site of the Revenue Authorities i.e., R.D.O/Tahsildar/Chairman/J.C., that the surname of the appellant though tallied in the report of MRO with that of Dudekula people, but this point was deliberately avoided though MRO found that, the petitioner name tallies with the Dudekula Caste people. This aspect has been found to be not taken into consideration in the orders issued by the District Collector, Karimnagar.

14. It is also relevant to observe that, the social status of the relative so called maternal uncle of the appellant cannot be applied to that of appellant. The so called relative maternal uncle about 10 years junior and studied in different medium and school and not belongs to the paternal father and forefather's family has been considered by the enquiry authorities to establish that, he obtained OBC Certificate whereas, the appellant is Dudekula by caste.

15. Therefore, for the simple reason that, the relative maternal uncle of the appellant has not claimed social status as that of BC (B) Group, the appellant cannot be denied the social status as Dudekula Community.

16. The copy of the service book of the father of the appellant filed in the records does not state the social status of the father. The column provided in the service book does elicit information of any employee. It is as mother tongue, identification marks, address, educational qualification etc., are to be mentioned. In this case, no where the employee in the SR is asked to disclose his caste status. The mention of BC Caste also does not provide any promotional avenues or reservations or higher pay. Therefore, the Tahsildar, RDO attempted to draw a wrong conclusion that, for the entry of mother tongue as Urdu in the service book of father, indication as forward caste status. Further much after retirement of two years, the Executive Engineer on his own without referring to the relevant entry into Service Book has jumped into conclusion and reported the father caste as a forward caste, which was relied upon as the ground to reject the appellant as a Dudekula in the Collectors proceeding referred above.

17. The authorities have not caused any enquiry in the native village of the appellant with regard to the social status of the appellant which is known to be cardinal principle of fair enquiry enunciated in Acts & Rules and therefore, the order passed by the Competent Authority cancelling the Caste Certificate of the appellant is contrary to the provisions of the A.P. SC/ST/BC Regulation of issue of Community Certificate Act, 1993 and Rules 1997.

18. It is also found from the records that, the Muslim Organization (Dudekula Noor Basha) Jammikunta (Regd.No.1884/1986) and the Certificate issued by the Gulzar Masjid Committee, Jammikunta certified and declared that, appellant belong to BC (B) Dudekula Caste. These documents were not taken into cognizance and also no where this is discussed in the District Collector's Proceeding R.Dis.C4/1222/2012, dated: 15.09.2012.

19. The following provisions of the Acts & Rules relating to the .P. (SC/ST/BC) issues of community Nativity Certificate has not been carefully taken into account by the Enquiry Officer and District Collector swayed away by the information gathered and furnished by lower officers without actual verification of each of the entries of the original records to arrive at conclusion of declaring the appellants BC (B) Dudekula Certificate as fake and false.

20. Further, a reference is more relevant to be mentioned here is that, according the Sec. 16 of the Rule dealing with validity of the community, Nativity and Date of Birth "The Community, Nativity and Date of Birth Certificate issued by the Competent Authority in accordance with these provisions shall be permanent one".

21. Further, the Sec. 21 deals with the title "Savings" reads as follows:

"The Community Certificate" issued by the Competent Authority prior to the commencement of these Rules should be treated as valid Certificate". The BC Dudekula Certificate was first issued by the MRO Jammikunta to the appellant vide R.Dis.No.C/4643/1993, dated: 28.05.1993.

22. The provisions of the said Rule have not been applied in this case which needs consideration now.

23. Therefore, after careful examination of the entire matter Government hereby allow the appeal filed by Sri Md.Murtuza Ali Ahmed and in exercise of the powers conferred under section 7 (2) of A.P. (SC/ST/BCs) Regulation of issue of Community Certificate Act 1993 and Rules 1997, the Proceedings of the District Collector & Magistrate, Karimnagar R.Dis.No.C4/1222/2012, dated: 15.09.2012 are hereby quashed.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AR. SUKUMAR
PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri Md. Murtuja Ali Ahmed, S/o Sri Jameel Ahmed, R/o Kothapally (V),
Jammikunta (M), Karimnagar District.

The Collector & Dist. Magistrate, Karimnagar District.

Copy to:

The Commissioner, B.C. Welfare, A.P., Hyderabad.

The OSD to Minister(Backward classes welfare).

P.S. to Principal Secretary to Govt., B.C. Welfare Department.

Sri P.Venkat Kumar, S/o Late P.Satyanarayana, R/o H.No.12-11/1580,
Boudhnagar, Warasiguda, Hyderabad.

SF/SC

// FORWARDED : BY ORDER //

SECTION OFFICER